



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,057	04/14/2004	Michael C. Van Zandt	03-334-A	8007

20306 7590 06/14/2007  
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP  
300 S. WACKER DRIVE  
32ND FLOOR  
CHICAGO, IL 60606

EXAMINER
----------

LAMBKIN, DEBORAH C

ART UNIT	PAPER NUMBER
----------	--------------

1626

MAIL DATE	DELIVERY MODE
-----------	---------------

06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/824,057	Applicant(s) VAN ZANDT ET AL.	
	Examiner Deborah C. Lambkin	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**DEROAH C. LAMBKIN**  
**PRIMARY EXAMINER**

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Upon further consideration, the instant claims were found subjected to a restriction requirement because of the vastly dissimilar structures which do not share a novel common core and to search all the various patentably distinct compounds in one application would be an undue burden on the examiner.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is phenyl or naphthyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
- II. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is phenyl or naphthyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
- III. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is phenyl or naphthyl and Q is het, classified in class / subclass , many, depending on the elected species.

Art Unit: 1626

- IV. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is thiazoyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
- V. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is thiazoyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
- VI. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is thiazoyl and Q is het, classified in class / subclass, many, depending on the elected species.
- VII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is pyrazoyl or dihydropyrazolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
- VIII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is pyrazoyl or dihydropyrazolyl and Q is non-het, classified in class , subclass, many, depending on the elected species.
- IX. Claims 1-22, drawn to compounds, compositions and methods

Art Unit: 1626

of formula I wherein R<sub>2</sub> is a heteroaryl containing moiety, A is pyrazoyl or dihydropyrazoyl and Q is het, classified in class / subclass, many, depending on the elected species.

X. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R<sub>2</sub> is a non-heteroaryl containing moiety, A is furanyl and Q is non-het, classified in class / subclass , many, depending on the elected species.

XI. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R<sub>2</sub> is a heteroaryl containing moiety, A is furanyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

XII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R<sub>2</sub> is heteroaryl containing moiety, A is furanyl and Q is het, classified in class / subclass , many, depending on the elected species.

XIII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R<sub>2</sub> is a non-heteroaryl containing moiety, A is benzofuranyl and Q is non-het, classified in class / subclass , many, depending on the elected species.

XIV. Claim 1-22, drawn to compounds, compositions and methods

Art Unit: 1626

of formula I wherein R2 is a heteroaryl containing moiety, A is  
benzofuranyl and Q is non-het, classified in class / subclass, many,  
depending on the elected species.

XV. Claims 1-22, drawn to compounds, compositions and methods  
of formula I wherein R2 is heteroaryl containing moiety, A is benzofuranyl  
and Q is het, classified in class / subclass , many, depending on the  
elected species.

XVI. Claims 1-22, drawn to compounds, compositions and methods  
of formula I wherein R2 is a non-heteroaryl containing moiety, A is  
pyrimidyl and Q is non-het, classified in class / subclass , many,  
depending on the elected species.

XVII. Claim 1-22, drawn to compounds, compositions and methods  
of formula I wherein R2 is a heteroaryl containing moiety, A is pyrimidyl  
and Q is non-het, classified in class / subclass, many, depending  
on the elected species.

XVIII. Claims 1-22, drawn to compounds, compositions and methods  
of formula I wherein R2 is heteroaryl containing moiety, A is pyrimidyl and  
Q is het, classified in class / subclass , many, depending on the  
elected species.

Art Unit: 1626

- XIX. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is pyridyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
- XX. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is pyridyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
- XXI. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is pyridyl and Q is het, classified in class / subclass , many, depending on the elected species.
- XXII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is quinolinyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
- XXIII. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is quinolinyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

Art Unit: 1626

XXIV. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is quinolinyl and Q is het, classified in class / subclass , many, depending on the elected species.

XXV. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is quinazolinyl and Q is non-het, classified in class / subclass , many, depending on the elected species.

XXVI. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is quinazolinyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

XXVII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is quinazolinyl and Q is het, classified in class / subclass , many, depending on the elected species.



XXVIII. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is benzothiophene and Q is non-het, classified in class / subclass , many, depending on the elected species.

XXIX. Claim1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is benzothiophene and Q is non-het, classified in class / subclass, many, depending on the elected species.

XXX. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is benzothiophene and Q is het, classified in class / subclass , many, depending on the elected species.

31. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is imidazolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.

32. Claim1-22, drawn to compounds, compositions and methods

Art Unit: 1626

of formula I wherein R2 is a heteroaryl containing moiety, A is imidazolyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

33. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is imidazolyl and Q is het, classified in class / subclass , many, depending on the elected species.

34. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is isothiazolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.

35. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is isothiazolyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

36. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is isothiazolyl and Q is het, classified in class / subclass , many, depending on the elected species.

37. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is pyrrolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
38. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is pyrrolyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
39. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is pyrrolyl and Q is het, classified in class / subclass , many, depending on the elected species.
40. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is oxazolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
41. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is oxazolyl and Q is non-het, classified in class / subclass, many, depending on the elected species.

Art Unit: 1626

42. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is oxazolyl and Q is het, classified in class / subclass , many, depending on the elected species.
43. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a non-heteroaryl containing moiety, A is triazolyl and Q is non-het, classified in class / subclass , many, depending on the elected species.
44. Claim 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is a heteroaryl containing moiety, A is triazolyl and Q is non-het, classified in class / subclass, many, depending on the elected species.
45. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2 is heteroaryl containing moiety, A is triazolyl and Q is het, classified in class / subclass , many, depending on the elected species.
47. Claims 1-22, drawn to compounds, compositions and methods of formula I wherein R2, A and Q are a group or moiety other than those in the above groups, classified in class / subclass , many, depending on the elected species.

Art Unit: 1626

The inventions are distinct, each from the other because of the following reasons:

They do not possess the same substantial common core seen to be essential to the use byitself, nor is said core novel.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Claim I, for example is generic to the following disclosed patentably distinct species: phenyls or naphthyls, thiazolyls, pyrazolyls, etc.

The species are independent or distinct because they do not possess the same substantial common core seen to de essential to the use byitself, nor is said core novel.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise

Art Unit: 1626

require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.


Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Art Unit: 1626

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah C. Lambkin whose telephone number is 571-272-0698. The examiner can normally be reached on M-F 9.00-5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



DEBORAH C. LAMBKIN  
PRIMARY EXAMINER

Art Unit: 1626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*DERORAH B. LAMBKIN*  
PRIMARY EXAMINER

\*\*\*